

**AMENDMENT PURSUANT TO 37 C.F.R. § 1.312
AND COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

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REMARKS

This submission is an amendment pursuant to 37 C.F.R. § 1.312 after allowance of the above-identified application. Entry of the amendment without withdrawing the application from issue is respectfully requested.

Claims 53-64 have been amended to correct typographical errors in the claims. Claim 65 has been cancelled without prejudice. The amendments were not made for reasons related to patentability, nor have the scope of the claims been narrowed thereby. No matter has been entered.

Also, pursuant to MPEP § 1302.14, Applicant makes the following comments on the Examiner's statement of reasons for allowance accompanying the Notice of Allowability dated April 28, 2004 and mailed May 17, 2004 with the Notice of Allowance.

In the April 4, 2002 Office Action, to which Applicant's January 26, 2004 submission responded in substance, the Examiner made two rejections over prior art. The Examiner rejected claims 51-58 as being anticipated by Bruins, and made a separate rejection of claims 1-3, 5-20 and 50-65 as being unpatentable (obvious) over Ersek in view of Ashman.

The Examiner's statement of reasons for allowance discusses "applicant's arguments", page 11 of remarks filed on 1/26/04" regarding the Bruins patent. The Examiner then later discusses "all claims as allowed." It is submitted, though, that the record is clear that the Applicant's referenced remarks related to the rejection of claims 51-58 over Bruins. Specifically, on page 11 of the 1/26/04 submission, Applicant stated that "claim 51 does not claim an implant material, but rather, a particulate implant." Applicant next discussed Bruins and concluded, "[t]herefore, Bruins does not anticipate claims 51-58 or otherwise render them unpatentable." Applicant then addressed the Ersek/Ashman rejection of claims 1-3, 5-20 and 50-65 on page 12 of the remarks, beginning with the paragraph starting "With respect to claims 1-3,

5-20 and 50-65 . . .” The Examiner’s statement of reasons for allowance does not address Applicant’s discussion of these claims, but nonetheless, Applicant believes the record is clear as to which claims the remarks pertain.

Finally, Applicant would also like to clarify the Examiner's statement regarding the "particles having a coating." Certain claims recite particles having a "coating" of calcium hydroxide, but none recite having a "coating" of hydroxymethacrylate. Rather, certain claims recite that the particles may have an "outer layer" comprising hydroxymethacrylate.

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Respectfully submitted,

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